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International Covenant on Civil and Political Rights

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Human Rights Committee
124th session

Summary record (partial)* of the 3529th meeting
Held at the Palais Wilson, Geneva, on Monday, 8 October 2018, at 10 a.m.

Chair: Mr. Shany

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Adoption of the agenda

Organizational and other matters, including the adoption of the report of the Working Group on Communications

* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.05 a.m.

Opening of the session

1. **Mr. Salama** (Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that the new High Commissioner, Ms. Bachelet, had emphasized the importance of the Committee's work in her recent address to the Human Rights Council. She looked forward to meeting with the Committee later in the session. Four Committee members, namely Ms. Cleveland, Mr. de Frouville, Mr. Politi and Ms. Waterval, would be leaving the Committee at the end of the session and would be greatly missed. He wished to extend a warm welcome to Mr. Zimmermann, who had been elected to the Committee in August 2018.

2. OHCHR had begun to implement its management plan for 2018–2021, under which it would continue to support the work of all the human rights treaty bodies and would focus on prevention, on the protection of civic space and on expanding the global constituency for human rights. In that context, he wished to commend the Committee on its engagement with civil society and to encourage it to discuss other ways to involve civil society in its work.

3. As outlined in the recent report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/39/41), measures were being taken within the United Nations system to address the problem of reprisals against those who had cooperated with the United Nations. In order to tackle the problem effectively, it was important to develop a common approach across the system. To that end, most of the treaty bodies, including the Human Rights Committee, had appointed a focal point or rapporteur on reprisals. OHCHR hoped that the Committee would step up its collaboration with the focal points and rapporteurs on reprisals of other treaty bodies, as well as with other human rights mechanisms and the Office of the Assistant Secretary-General for Human Rights.

4. At the thirtieth annual meeting of the Chairs of the treaty bodies, the Chairs had agreed to propose the appointment of focal points in each treaty body for the establishment of a common position ahead of the 2020 review of the treaty body system. The Committee had already made good progress in that regard by deciding upon its own position. The Chairs had also agreed to explore ways to align treaty body working methods with respect to both the simplified reporting procedure and follow-up to concluding observations and Views.

5. The latest report of the Secretary-General on the status of the human rights treaty body system (A/73/309) showed that the increase in meeting time granted to the treaty bodies had not been matched by the allocation of sufficient human resources and that some treaty body activities were far more labour-intensive than had been anticipated. As a result, OHCHR staff were struggling to cope with the workload. OHCHR was aware of the Committee's efforts to address the problem and looked forward to working with the Committee in order to find a sustainable, long-term solution.

6. During its 124th session, the Committee would consider the reports of six States parties to the International Covenant on Civil and Political Rights and would examine a number of individual communications submitted under the first Optional Protocol thereto. It would also continue its second reading of draft general comment No. 36 on article 6 of the Covenant (Right to life).

Solemn declaration by newly elected members of the Committee in accordance with article 38 of the Covenant

7. *At the invitation of the Chair, the new member of the Committee, Mr. Zimmermann, solemnly undertook to discharge his duties impartially and conscientiously in accordance with article 38 of the Covenant and rule 16 of the Committee's rules of procedure.*

Adoption of the agenda (CCPR/C/124/1)

8. **The Chair** said that, during its 124th session, the Committee would hold a meeting with the United Nations High Commissioner for Human Rights and an informal meeting with States parties. It was also planning to meet with members of the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women as part of its ongoing efforts to work more closely with other treaty bodies. Lastly, it was aiming to finalize and adopt the draft general comment and the draft revised rules of procedure.

9. *The agenda was adopted.*

Organizational and other matters, including the adoption of the report of the Working Group on Communications

10. **Ms. Waterval** said that the Working Group on Communications had met from 1 to 4 October 2018 to consider 22 communications. Two of those communications had been available in English only; nevertheless, the Working Group had decided to proceed with its consideration of the cases in question, since they concerned deportation and were similar to a third case for which the documentation was available in the Committee's working languages. The Working Group recommended finding a violation of the Covenant in 14 cases and finding that there had been no violation in 1 case; 6 cases should be declared inadmissible, while 1 case allowed for two differing interpretations.

11. **The Chair** said that he associated himself with the concerns raised about the discussion of documents available in English only. Such problems were linked to the lack of resources mentioned by Mr. Salama.

12. *The report of the Working Group on Communications was adopted.*

The discussion covered in the summary record ended at 10.25 a.m.

International Covenant on Civil and Political Rights

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11 October 2018

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Human Rights Committee
124th session

Summary record of the 3530th meeting
Held at the Palais Wilson, Geneva, on Monday, 8 October 2018, at 3 p.m.

Chair: Ms. Cleveland (Vice-Chair)

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant

Fifth periodic report of Belarus

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Ms. Cleveland (Vice-Chair) took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant

Fifth periodic report of Belarus (CCPR/C/BLR/5; CCPR/C/BLR/QPR/5)

1. *At the invitation of the Chair, the delegation of Belarus took places at the Committee table.*

2. **Mr. Ambrazevich** (Belarus), introducing the State party's fifth periodic report (CCPR/C/BLR/5), said that his country's commitment to meeting its international human rights obligations and its determination to cooperate with treaty bodies had enabled it to surmount the obstacles that had prevented it from submitting its report more promptly. Belarus was grateful to the Committee for introducing the simplified reporting procedure, thereby assisting States parties in preparing their periodic reports.

3. The national and international policies of Belarus were based on its recognition of the importance of promoting and protecting all interrelated and interdependent categories of human rights.

4. The data contained in the Human Development Report issued by the United Nations Development Programme (UNDP) in September 2018 were based on a number of human rights criteria. He was proud to report that Belarus had joined the group of States with the highest level of human development, having been ranked 53rd among the 189 States surveyed. During the 15-year cycle of the Millennium Development Goals, Belarus had achieved the goals related to the elimination of extreme poverty and hunger, provision of universal primary education, reduction of maternal and infant mortality rates, and gender equality. In 2016, Belarus had been the first country in Europe to receive a certificate from the World Health Organization (WHO) confirming the elimination of mother-to-child transmission of HIV and syphilis. As sustainable development facilitated the enjoyment of all rights, including civil and political rights, Belarus was taking vigorous action to achieve the Sustainable Development Goals. It had appointed a National Coordinator for the purpose and established a Council for Sustainable Development.

5. Belarus attached great importance to the preservation of peace and security. Minsk served as a forum for negotiations concerning the conflict in eastern Ukraine. In 2017, the Belarusian President had launched a wide-ranging international dialogue on security issues. Belarus had also promoted a global initiative aimed at boosting efforts to combat human trafficking.

6. Belarus was a party to most of the core international human rights instruments. The Convention on the Rights of Persons with Disabilities had entered into force in the country on 29 December 2016. Although Belarus was not a member of the Council of Europe, it was also party to 14 of the Council's instruments in the areas of culture, education, sport and action to combat corruption. It had sought to accede to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, but its application had unfortunately been rejected on two occasions.

7. Belarus had extended a standing invitation to nine special procedure mandate holders and had also invited the United Nations High Commissioner for Human Rights to visit the country. A human rights counsellor from the Office of the United Nations High Commissioner for Human Rights (OHCHR) had recently taken up post in Belarus. In 2017, Belarus had become one of the few countries without a treaty body reporting backlog. A training course for government bodies had recently been organized in Minsk, in cooperation with OHCHR.

8. On the other hand, Belarus had rejected from the outset the mandate of the Special Rapporteur on the situation of human rights in Belarus, since it had been established without the approval of the Belarusian Government. The Special Rapporteur had long been implementing the political mission of a specific group of States, the aim being to conceal the interference by certain countries in the internal affairs of Belarus. It was counterproductive to seek to impose spur-of-the-moment human rights decisions on

Belarus, which engaged in regular bilateral discussions with European Union countries and the United States.

9. The 2016–2019 national plan of action on human rights provided for 100 human rights measures in diverse areas. Civil society's views had been taken into account in producing the plan of action, and a monitoring body had been established to report to the Government. Steps were currently being taken to enhance the transparency of implementation. The measures listed in detail in the State party's report had been undertaken during a period in which the country had been subjected to unilateral sanctions by the European Union and the United States.

10. Institutional and legislative measures had been introduced to promote civil and political rights. Citizens could protect their rights by resorting to the domestic legal system and, when domestic remedies had been exhausted, to the procedure under the Optional Protocol to the Covenant. The State sought to respond speedily to the issues raised, but it disagreed with the contention that the significant number of communications testified to numerous human rights violations. It had noted, on analysis, that the complaints were of a similar nature and related to specific norms and laws that were openly and regularly discussed. Efforts were being made to take the Committee's views into account, particularly with respect to improvements in the country's legislation.

11. The State party had a national mechanism for protecting citizens' rights and considering complaints from individuals and corporate bodies, which did not compete with national human rights institutions yet which focused on practical action that was mandatory for State bodies and other organizations.

12. Recent legislative changes included a bill on amendments to the Act on Mass Events; a bill amending a number of laws, including the Act on Mass Media, which had been adopted in June 2018; a bill on amendments to a number of Belarusian codes, whereby unlawful activities by voluntary associations, religious organizations and foundations, or participation in such activities, would henceforth constitute an administrative rather than a criminal offence; and an act introducing amendments to the Code of Civil Procedure of Belarus, providing for the transition from cassation-based to appeal-based proceedings for the review of judgments handed down in civil cases.

13. **Mr. Shany** said that he welcomed the resumption of an interactive dialogue with Belarus after a gap of more than 20 years. The Committee's interaction with the State party during that period had been confined to individual communications and it had unfortunately not been particularly constructive, owing to the State party's rejection of some basic elements of the Committee's approach to the review of such communications.

14. The Committee also welcomed the establishment of the 2016–2019 inter-agency plan to implement the recommendations accepted following the second cycle of the universal periodic review and the recommendations of the treaty bodies. He wished to know whether treaty body recommendations were systematically recognized as forming part of the plan and whether steps had been taken to implement specific Committee recommendations. He also wished to know whether representatives of civil society had been involved in drafting the plan and whether they had been offered a meaningful opportunity to influence the content of the periodic report.

15. As States' consent was not a precondition for the establishment of special procedure mandates, lack of consent should not be invoked as a ground for non-cooperation with the Special Rapporteur on the situation of human rights in Belarus.

16. Noting that the State party had simply taken note of a large number of recommendations made during the second cycle of the universal periodic review, for instance ratification of the Second Optional Protocol to the Covenant, he asked whether there was a procedure for reassessing its position on those recommendations.

17. Referring to the Citizens' and Legal Entities' Appeals Act, he would appreciate specific information concerning the time frames for considering appeals, the standards for legal representation and the procedures for organizing private meetings.

18. The delegation should provide examples of the contribution made by the National People's Assembly to the monitoring of human rights standards. He asked whether the political opposition was involved in its work and to what extent it replicated or even weakened the parliament's role in developing policy and legislation.

19. According to the report, the absence of direct references to the Covenant in court decisions was due to the fact that the main provisions had been incorporated into national legislation. However, not all rights had been fully incorporated, and the Committee was also concerned about the interpretation of certain rights, such as freedom of assembly and association. He would appreciate assurances that judges, prosecutors and lawyers had been adequately appraised of the Covenant and the Committee's work.

20. It had taken the State party a great deal of time to ratify the Convention on the Rights of Persons with Disabilities, and the Committee had been informed that progress was slow in creating an accessible environment and integrating children with disabilities into the education system. He wished to know what percentage of buildings, educational institutions and public transport facilities were currently accessible. Had sufficient funds been allocated to programmes for improving accessibility? It had been alleged that mothers were pressurized to abort when a foetus was diagnosed with disabilities, and that children were removed from families where the parents had disabilities. The Committee had also been informed that persons with physical, mental and psychosocial disabilities were housed in the same facilities and that the treatment was not adjusted to meet their needs. He would welcome the delegation's comments on those matters, as well as assurances that the State party was taking effective action to address the persistent stigmas attached to persons living with HIV/AIDS.

21. While many steps had been taken to improve the representation of women in decision-making positions, he asked whether the lack of women at the highest level of government and among the chairs and vice-chairs of parliamentary committees was due to patriarchal attitudes. Available data indicated that pay gaps still existed across the board, even in education. He asked whether women were fully integrated into the commercial sector and whether they were represented, for instance, on corporate boards. There was also a gender gap in the retirement age which, according to some sources, rendered women less attractive candidates than men for certain positions. He asked whether that was the case.

22. According to the Trafficking in Persons Report of the United States Department of State, the rate of trafficking was still high in Belarus. The State party acknowledged that sophisticated criminals managed to evade existing legislation and create loopholes, such as prostitution rings based on the alleged consent of victims, although they were based on fraud, coercion or exploitation. He asked what weight the State party attached to the element of consent.

23. While commending the State party's close cooperation with NGOs in supporting victims, he wished to know to what extent the service was dependent on the ability of NGOs to solicit funding from external sources. In other words, had the Government privatized a sector for which it was responsible? The conditions in Government-run shelters were also allegedly inadequate.

24. Although forced labour was prohibited by the Constitution, many sources had expressed concern regarding legislative arrangements such as Presidential Decree No. 18 of 2006 on dysfunctional families, Act No. 104-3 of 2010 on occupational therapy and Presidential Decree No. 3 of 2015 on preventing social dependency, which had been withdrawn. Furthermore, certain provisions of the Criminal Code prescribed compulsory labour as a penalty. He would appreciate receiving clarification of the justification for such arrangements.

25. **Mr. Heyns**, turning first to the question of cooperation with the Committee, said that he wished to raise the issue of interim measures in death penalty cases. With regard to the information given in paragraph 18 of the State party's report, he failed to understand why national legislation should be needed in order to apply interim measures requested by the Committee, since article 39 of the Covenant made provision for the establishment by the Committee of the rules of procedure on which those requests were based. Interim measures were required in order to enable the Committee to function. As the Committee

met only three times a year, it could not deal with death penalty cases immediately, and it issued interim measures to prevent irreparable harm being done in the meantime. The delegation should explain its position in respect of interim measures. He noted that the death penalty had been carried out in 11 cases where the Committee had requested a stay of execution. In view of the lack of response to the Committee's note verbale of 19 July 2018, he wished to know whether Alexsey Mikhalenya was still alive.

26. According to the Committee's statistics, violations of the Covenant had been found to have occurred in 104 of the 107 individual communications concerning Belarus that had been examined on their merits. The Committee was therefore concerned that its Views were disregarded, although it was the authoritative interpreter of the Covenant and the Optional Protocol thereto. Failure to give effect to those Views would seem to call into question the State party's commitment to its obligations under the Optional Protocol. The delegation should comment on the statement in paragraph 19 of the report that Belarus considered the Committee's decisions on communications to be advisory.

27. With regard to the supervisory procedure referred to in paragraph 20 of the report, the Committee considered that, as that procedure was discretionary, it was not a full remedy, did not comply with article 14 of the Covenant and was to some extent akin to a clemency application. For that reason, if such supervisory procedures had first to be exhausted, that would effectively block the role of the Committee. The State party's position that legal representation of authors of communications was unacceptable would, in the Committee's view, deny people the right of legal representation. The presence of the delegation afforded an opportunity to overcome those obstacles to collaboration.

28. As far as the establishment of an independent national human rights institution was concerned, the Committee was worried not only that that issue was not being discussed in public but also that the envisaged institution would not comply with the Paris Principles, since it would not be funded independently and would be unable to investigate cases on its own initiative.

29. With regard to the right to life, no information appeared to be publicly available on a number of cases of disappearances and murders in 1999 and 2000, which had been raised in correspondence between the State party and the Committee. As the Committee had indicated in its draft general comment on article 6 of the Covenant, a failure properly to investigate such cases impartially, independently and effectively was a violation of the right to life. Moreover, family members must be informed of those investigations. Similarly, the findings of investigations into deaths in custody must be made public. The Committee therefore urged the State party to increase the transparency of the process by publishing information on such investigations.

30. **Mr. Muhumuza** said that the Committee had information indicating that no anti-discrimination law existed and that there were therefore no effective mechanisms for ensuring equality and protection against discrimination. For that reason, he wished to know what real steps were being taken to incorporate equality and non-discrimination principles in Belarusian law. The Committee would welcome details of measures taken to provide effective remedies for discrimination. What was being done, in the absence of a national human rights institution, to ensure that victims of discrimination could submit complaints to institutions that could properly review and check those complaints and that they had access to simplified conflict resolution procedures?

31. He would appreciate receiving information on court convictions for racist and hate speech and on how the work of the expert commissions mentioned in paragraphs 47 to 49 of the State party's report was integrated in the criminal justice system in order to ensure effective accountability, as well as details of any prosecutions resulting from that work.

32. The Committee wished to know if there were any instruments prohibiting ethnic profiling and what steps were being taken to curb the spread of material fomenting prejudice against Roma among the population. It would be grateful for information on State party action to establish a comprehensive national programme to foster the social integration of Roma. Given reports of worrying levels of illiteracy and non-attendance of school by Roma children, the delegation should explain how any challenges with the

education of the Roma population were being addressed. What measures were in place to improve the situation?

33. **Ms. Waterval** said that she would appreciate the delegation's comments on reports of discrimination against and harassment of the lesbian, gay, bisexual and transgender (LGBT) community, widespread homophobic discourse and hate speech, including certain remarks made by the President of Belarus. Information in the Committee's possession indicated that only a small fraction of victims reported LGBT-related crimes to the police, because they encountered bias by the police or because no action was taken on their complaint. It appeared that LGBT hate was not generally regarded as an aggravating circumstance in criminal proceedings. For that reason, she wished to know what specific legislative measures had been adopted to protect the LGBT community and persons belonging to sexual minorities from discrimination and hate speech, and to prohibit discrimination on grounds of sexual orientation and gender identity.

34. With regard to the death penalty, the delegation should describe the measures that had been taken to introduce legislation proscribing failure to inform the family of an individual under sentence of death in advance of the date of the execution, failure to hand over the body of the executed prisoner to the family, and failure to disclose the location of the burial site. In communication No. 2120/2011, the Committee had concluded that the State party was under an obligation to provide the authors with an effective remedy, including appropriate compensation for the anguish suffered, and to prevent similar violations in the future. She therefore hoped that fulfilment of that obligation was included in the national plan.

35. Referring to paragraph 133 of the State party's report, she wished to know how many of the 172 persons who had been sentenced to death had been pardoned or had had their sentence commuted, how many sentences had been carried out and how long families had waited before they had been notified of executions. Information about the effectiveness of the review of a death sentence under the supervisory procedure mentioned in paragraph 138 of the report would be appreciated. The delegation should also elaborate on article 407 of the Code of Criminal Procedure on appeals against death sentences.

36. **Ms. Brands Kehris** said that she wished to know how many of the convictions enumerated in paragraph 104 of the State party's report concerned gender-based violence against women and how many had been handed down for domestic violence. In October 2016, the Committee on the Elimination of Discrimination against Women had noted an increase in gender-based violence. She therefore asked whether the contradictory figures in paragraph 105 concerned complaints, reported cases or convictions, and what precise measures had led to the reported decrease. In light of the substantial increase in the number of administrative offences mentioned in paragraph 106, those figures were questionable. The delegation should provide an update on progress towards adoption of the draft law that would specifically criminalize domestic violence. She would be grateful for information on the content of the training referred to in paragraph 114, on how many members of public safety militia units had received such training, and on whether it had also be given to law enforcement officials. Did it include gender-sensitive investigation methods?

37. She was puzzled why the criminalization of marital rape could be regarded as discriminatory. She would appreciate statistical data on cases of marital rape and wished to know what effective remedies and protection were available to victims and what the procedure was for prosecuting perpetrators. Had any measures been taken to encourage women to report domestic violence, including marital rape? And were the police, prosecutors, lawyers and judges given specific training to deal with cases where such violence occurred?

38. The delegation should provide details of the procedure for identifying and investigating cases of bodily harm suffered by convicted persons or those in custody. What were the causes of that harm, and exactly what steps had been taken to eliminate those causes and the circumstances leading to such incidents? The delegation should also comment on allegations that law enforcement officers resorted to torture and ill-treatment to extort confessions from suspects, that such confessions were used as evidence in court, and that complaints of such torture and ill-treatment were not investigated. What action had

been taken to ensure that persons who complained of torture did not face reprisals, especially while in detention or serving a sentence?

39. She wished to know what steps had been taken or were planned to give effect to the recommendations of the Committee and other human rights bodies that a fully independent mechanism should be established to receive complaints and investigate allegations of torture and ill-treatment. How did the investigative committees work? Were they really independent? She wished to know if any measures had been taken or were planned to strengthen those committees' independence, including through safeguards such as a dedicated unit. It was not clear how independent and reliable medical examinations were when it came to recording injuries, given that the medical units which provided those services were attached to the prison system. She asked if any specific training was provided on how to investigate allegations of torture or other cruel, inhumane or degrading treatment. Who received such training and did it include instruction in the Istanbul Protocol?

40. Lastly, she wished to know what had been done to incorporate in Belarusian legislation a separate and specific crime that fully covered all elements of torture and ill-treatment, in accordance with article 7 of the Covenant, and which ensured that penalties commensurate with the gravity of the crime existed. Was Belarus planning to ratify the Optional Protocol to the Convention against Torture and, if so, when? The delegation should explain the discrepancy between information that complaints of torture and ill-treatment had been repeatedly submitted by the counsel of Andrei Sannikau and Ales Mikhalevich to the Office of the Procurator General and the Minsk prosecutor's office, on the one hand, and the assertions to the contrary made in paragraph 161 of the State party's report, on the other. She would also appreciate an explanation of the procedure for receiving and registering such complaints. Had specific steps been taken to promptly and impartially investigate the allegations regarding the torture and ill-treatment of Mr. Sannikau, in accordance with the State party's obligation under article 7 of the Covenant? What measures had been adopted by the State party in response to the Committee's findings in that case? She wished to know if there had been any convictions under articles 128 and 309 of the Criminal Code since 2016. Lastly, she would appreciate updated and specific information on the number of complaints of torture and ill-treatment, on the outcome of any investigations that might have been conducted, and on the remedies provided to victims.

41. **Mr. de Frouville** asked what action had been taken by the State party in response to the Committee's views on the disappearance of Anatoly Krasovski and Yuri Zakharenko and in response to the recommendations made in paragraphs 10.1 and 10.2 of Resolution 1371 (2004) of the Council of Europe Parliamentary Assembly. Lastly, he asked whether Belarus was prepared to authorize a visit by the Working Group on Enforced or Involuntary Disappearance of the Human Rights Council in the near future.

The meeting was suspended at 4.25 p.m. and resumed at 4.40 p.m.

42. **Ms. Belskaya** (Belarus) said that the national human rights plan would provide for wide-ranging interaction among the Government, civil society and other stakeholders on issues related to the implementation of the recommendations of the treaty bodies and the universal periodic review. The Plan set out almost 100 initiatives, including measures intended to improve cooperation with United Nations treaty bodies, to increase the involvement of civil society in preparing legislation on human rights issues, and to encourage respect for the human rights of vulnerable groups. Civil society organizations had been involved in drafting the plan and had been invited to take part in round-table discussions on topics such as eliminating discrimination and anti-Semitism. Representatives from other States and international organizations had also been invited to such discussions.

43. Belarus had a network of State and civil society institutions specializing in the protection and promotion of human rights in particular areas. The system also allowed those institutions to recommend changes to administrative practices and legislation and to advocate for the introduction of best practices adopted by other countries. The National Centre for Legislation and Legal Research had studied the advisability of establishing an independent national human rights institution, as recommended under the Paris Principles, and the Government had organized a number of internationally oriented events with a view

to learning from neighbouring countries whose social, economic and political situations were comparable to those of Belarus. Other events brought together representatives from countries around the world to discuss the feasibility of introducing a human rights ombudsman in Belarus. That dialogue would continue, in order to determine what type of national human rights institution would be the most suitable for the specific situation of Belarus.

44. **Mr. Shin**o (Belarus) said that all laws adopted by the parliament, prior to ratification, were subject to review to assess their conformity with the international treaties to which Belarus was a party. Measures were also taken to align existing legislation with international standards. There was therefore no need for the courts to invoke international treaties directly.

45. The Government had embarked on a three-year study to determine whether it should amend its legislation to strengthen the prohibition of discrimination or prepare a comprehensive legal text prohibiting all discrimination. The first part of the study had involved consultations with civil society, the Belarusian Helsinki Committee and organizations of persons with disabilities. It had revealed that there were no discriminatory provisions in Belarusian legislation. In fact, discrimination was expressly prohibited in the provisions of over 300 laws. Nevertheless, the Government was looking into amending some legal texts, including the Labour Code, so as to introduce non-exhaustive lists of the grounds on which discrimination was prohibited. All forms of discrimination by civil servants were strictly prohibited. Under article 175 of the Code of Administrative Procedure, in the event that a complaint of discrimination on the part of a State organization or official was lodged by a citizen, the State must demonstrate that no discrimination had taken place. The State authority against which the complaint had been made could not be present during the proceedings. Article 130 of the Criminal Code criminalized incitement to religious or racial hatred, and racial or political motivation was considered to be an aggravating circumstance in the commission of other offences. Restricting the civil rights of citizens on discriminatory grounds was also prohibited by law. The results of the second stage of the study, which would involve learning from the experiences of other States, would be published the following year and used to determine whether it was advisable to adopt an act specifically prohibiting discrimination on all grounds.

46. Belarusian legislation defined the concept of torture and established criminal liability for acts of torture. The Government might consider adopting an independent act on the prohibition of torture, but it would have to conduct a preparatory study before taking any action in that regard.

47. **Ms. Maslevskaya** (Belarus) said that the Ministry of Labour and Social Protection had adopted a plan of action to implement the Convention on the Rights of Persons with Disabilities. The plan had been designed to bring about a legislative and institutional framework that would facilitate the elimination of discrimination against persons with disabilities, their integration into society and respect for their rights, dignity and fundamental freedoms. Under the plan, which had been drafted in consultation with organizations of persons with disabilities, definitions of the concept of "discrimination on grounds of disability" and of the terms "disability", "person with disabilities" and "equal access", all of which would be in line with the Convention, would be introduced into legislation. The plan would also improve the provision of needs-specific emergency assistance to persons with disabilities. Existing infrastructure and public transport would be made accessible to persons with disabilities. In addition, persons with disabilities would be given access to social and medical rehabilitation services. Improving support for persons with disabilities would require a new definition of "person requiring assistance" and the institution of the role of personal assistants. Organizations and associations of persons with disabilities would be consulted in all matters pertaining to implementation of the Convention.

48. **Ms. Bohdan** (Belarus) said that the Government discouraged the interruption of pregnancy on the basis of embryonic malformations. Pregnant women who were notified that their baby might have a severe impairment were given access to expert medical and psychological support. Through joint measures with NGOs, the Ministry of Health had succeeded in significantly reducing the prevalence of abortion in such cases, mainly by

providing psychological support to families. The Ministry of Health had also taken measures to provide palliative care, support and access to social activities for children with disabilities.

49. A survey conducted in partnership with NGOs had revealed that 20 per cent of women living with HIV/AIDS had experienced some form of stigmatization. Efforts had been made to raise awareness among medical students and professionals of the importance of destigmatizing HIV/AIDS. In addition, work was currently under way to introduce legislation to better protect the rights of persons living with HIV/AIDS. As a result, legislation had been adopted on the role played by carers looking after persons with HIV/AIDS or working in child protection facilities and on the improvement of access to psychotropic medicines and medical treatment for persons living with HIV/AIDS.

50. **Mr. Rodionov** (Belarus) said that a subunit on discrimination had been established within the human rights division of the Office of the Procurator General. The Office had been monitoring the provision of social support services for many years and had handed down a number of penalties to State officials for violations of the Social Protection for Persons with Disabilities Act. All new residential and administrative buildings must be accessible to persons with disabilities. To that end, administrative measures had been adopted to ensure that all barriers to access to public infrastructure were eliminated by 2025. The Office of the Procurator General had also ordered inspections of social housing and facilities for children with disabilities. In 2018, 12 laws and regulations had been adopted to improve the living conditions of all persons with disabilities in social facilities. Legislative changes had also been made to improve the social and medical assistance provided to persons with mental or psychosocial impairments.

51. **Ms. Vasilevskaya** (Belarus) said that Belarus was a multi-ethnic and multi-faith State where over 140 ethnic groups lived peacefully alongside one another. The Office of the Commissioner for Religious and Ethnic Affairs played a major role in maintaining that harmony. The meetings of its Inter-Ethnic Advisory Council, which provided a platform to coordinate social actions and encourage the Government to ensure greater equality in its work, were regularly attended by the chair of an NGO representing the Russian Roma diaspora. The Roma community was fully integrated into society. Its members enjoyed the right to free preschool, primary and secondary education, with due consideration given to their traditions and individual capacities. For its part, the Ministry of Internal Affairs organized frequent events to raise awareness among law enforcement officers of the need to behave in an appropriate manner towards members of ethnic groups and other minorities.

52. **Mr. Ambrazevich** (Belarus) said that, in collaboration with the United Nations Population Fund, new legislation had been drafted on domestic violence and new approaches to the issue were being adopted.

53. **Mr. Rodionov** (Belarus) said that the country had managed to turn around its record on domestic violence since 2014. A series of measures had been taken as a result of consultations with the Ministry of Health and educational establishments, including the opening of 133 crisis units to provide shelter for victims of domestic violence. Those units were run by local social services, often in cooperation with NGOs. With regard to the prevention of domestic violence, the Office of the Procurator General had overall responsibility for coordinating the actions of 15 offence prevention units. In 2017, the Office had carried out over 1,400 checks and inspections, adopted over 2,000 supervisory documents related to violations of legislation, and taken firm disciplinary action against over 1,000 people, including officials.

54. **Ms. Suzdaleva** (Belarus) said that the Investigative Committee of Belarus had been established in 2012 as a special institution devoted to independent crime investigation. The institution's activities, designed to improve preliminary investigations and to uphold the interests of citizens before the start of judicial proceedings, were carried out on the basis of the principles of legality, openness and transparency. They did not therefore conflict with legislation protecting the rights and interests of citizens, foreign citizens and stateless persons, nor with the laws on State secrets and other secrets protected by legislation. The Investigative Committee's reporting system allowed it to supervise and regulate domestic activities by other investigative bodies, in order to ensure lawfulness and compliance with

the rights and obligations conferred on them by the State. The single and unified nature of its structure enabled the Committee to remain independent during its dealings with other bodies, such as political parties and other social entities. All the Committee's activities were clearly set out in the Code of Criminal Procedure and were based on the principle of equality before the law. The Committee showed no discrimination on the basis of professional status and carried out investigations into criminal cases involving all citizens, including civil servants and law enforcement officers, in strict compliance with the appropriate legislation.

55. In addition to working on cases of crimes committed against persons and the properties of individuals and organizations, the Investigative Committee had specialist expertise in crimes related to illegal activities in cyberspace, human trafficking, international drug trafficking and economic crimes. Regarding so-called disappearances, the Committee had implemented working methods that corresponded with both national and international practices. Although that work was bearing fruit, the Committee accepted that not all crimes could be solved and that it sometimes took a number of years for cases to be closed. Between 97 and 98 per cent of murder cases in Belarus were currently solved, including recently a case that dated back to 11 years previously.

56. **Ms. Maslovskaya** (Belarus) said that her country was committed to eliminating forced labour and that the Constitution prohibited such practices. Following comments put forward on the subject of forced labour, a new decree had come into force in 2016 that repealed Presidential Decree No. 9 on additional measures to develop the timber industry.

57. Presidential Decree No. 3 on preventing social parasitism had also been significantly amended to remove all references to the concept of unemployed persons paying social charges. Now known as the decree on promoting employment in the population, its aim was to increase employment and labour productivity by creating favourable conditions for recruitment, supporting entrepreneurial activities and providing solutions for jobseekers. In each region, a commission had been set up to meet with jobseekers in order to determine why they were out of work and to look at potential employment solutions. The meetings were also aimed at workers in the informal sector. In accordance with social labour legislation, informal sector workers who did not pay taxes were offered special social protection schemes, while Presidential Decree No. 3 provided for material incentives to encourage them to work legally. Recently, informal sector workers had also been given the opportunity to pay for State services as a means of reinstating themselves in society.

58. **Mr. Ambrazevich** (Belarus) said that his country considered any decisions on communications that had been registered and examined under the Optional Protocol as null and void, and that Belarus considered the Views of the Human Rights Committee to be advisory. The country believed that appeals were important, but that the matter was sufficiently covered by domestic legislation. Belarus maintained that the provisions of the Covenant could not be interpreted by the Committee that had been established for its implementation. Although appropriate national bodies were studying the practices implemented by the Committee when preparing its Views, and those Views were then brought to the attention of the competent State bodies, no special mechanism was in place to notify the public of the Views of the Committee.

59. Regarding the Committee's requests for interim measures of protection in cases concerning the death penalty, Belarus considered that its own national provisions prevailed over the requests of the Committee. Those requests were based on the Committee's rules of procedure and were therefore not considered to be binding judgments. Some of the Committee's work was received with incomprehension in Belarus, and requests such as the call to pay compensation to close relatives of persons found guilty of murders would never be understood by the public or the authorities.

60. **The Chair**, acknowledging that there had not been enough time to respond to all the questions raised by the Committee, said that if the delegation of Belarus wished to submit additional information in writing, it could do so within 48 hours after the close of the following day's meeting.

61. **Mr. Shany** said that he would appreciate further information on the degree of awareness of the Convenant among legal professionals. Since the Views of the Committee

were not circulated by the Government, the Committee could not be sure that judges and other legal professionals were aware of their existence. Was the Covenant taught as part of legal education? To what extent were the texts published by the Committee reviewed at legal conferences and workshops?

62. Concerning the delegation's position on the Views of the Committee, the State party had ratified a Covenant that had established the Committee as a monitoring body to interpret its provisions and offer guidance on its implementation. It was difficult to accept the view that the State party could be responsible for interpreting its own obligations under the Covenant and Optional Protocol. The Views of the Committee under the Optional Protocol were not core judgments and States parties did have some discretion concerning the pace at which they chose to implement them. However, refusing to cooperate or to consider the positions of the Committee and its requests for interim measures defeated the object of establishing an international human rights monitoring mechanism.

63. With regard to compensation payments, the Covenant established that even the worst criminals were entitled to due process. In the cases in question, the Committee had found that those rights had been violated, and an appropriate remedy therefore had to be sought. The remedy was nothing to do with the crime, but rather with the Committee's interpretation and application of the due process obligations that the State party had undertaken.

64. **Mr. Heyns** said that the right to appeal after being sentenced to death was a basic right recognized in the Covenant. Any death penalty imposed in contravention of that right was therefore in violation of the Covenant, which was why the Committee had called on the State party to take interim measures. Belarus was choosing not to cooperate with the Committee, which rendered the Committee ineffectual. The delegation was strongly encouraged to open up the channels of communication, so that the Committee could help the State party comply with its good faith and legal requirements under the Covenant.

65. **Mr. de Frouville** said that his earlier question had referred to enforced disappearances, not to general disappearances. He would be grateful for further information on the progress made in investigating the four such cases dating back to 1999 and 2000, and in particular the cases of Anatoly Krasovski and Yuri Zakharenko.

66. **Ms. Waterval** said that she believed the Committee shared the views expressed by Mr. Shany and Mr. Heyns.

67. **The Chair** said that she wished to reiterate that the State party had an obligation to cooperate in good faith with the Committee, including with respect to implementation of its Views and interim measures. She would welcome more information about the steps taken to ensure the privacy and other rights of transgender persons in the State party. It would be useful to know more about reports that passport numbers that had been generated before 2013 indicated the individual's gender. The Committee understood that the information, which was available to government officials, was hard to change and required a psychiatric inpatient evaluation. Was it also true that transgender men were not considered fit to serve in the military?

The meeting rose at 6.05 p.m.